

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

Crl.Rev.Pet.No. 2778 of 2007()

CC.1930/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHALAKUDY

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REVN. PETITIONER: COMPLAINANT:

DIVINE RETREAT CENTRE,
BY ITS POWER OF ATTORNEY HOLDER, RAPPAI,
S/O. OUSEPH, CHERUVATHUR HOUSE, POTTA, CHALAKUDY.

BY ADV. SRI.K.SUNILKUMAR

RESPONDENTS: ACCUSED & STATE:

1. K.A. JOSE,
PROPRIETOR, NATIONAL ELIVATOR COMPANY,
CANAL ROAD, THEVARA, KOCHI.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

V. RAMKUMAR, J.

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CrI.R.P. NO. 2778 of 2007

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Dated, this the 2nd day of August 2007

ORDER

Revision Petitioner who was the complainant in C.C. 1930 of 2005 on the file of the Judl. First Class Magistrate Court, Chalakkudy challenges the order dated 17-4-2007 passed by the Magistrate dismissing the complaint under Sec. 204 (4) Cr.P.C.

2. Since the order was passed prior to the appearance of the accused, notice to the first respondent/accused is dispensed with.

3. A perusal of the impugned order shows that the complainant has been grossly negligent in prosecuting the complaint. The prosecution is for an offence under Sec. 138 of the Negotiable Instruments Act, 1881 in respect of a cheque for a sum of Rs. 90,000/-. The revision petitioner/complainant is Divine Retreat Centre, represented by its power-of-attorney holder one Rappai.

4. After hearing the learned counsel for the revision petitioner and perusing the impugned order it is with great reluctance that I propose to give the complainant one more opportunity to prosecute his complaint and that too on payment of costs. Accordingly, the impugned order will stand set aside and C.C. 1930 of

2005 will stand restored to file in case the revision petitioner deposits a sum of Rs. 1,000/- before the court below within one month from today by way of costs payable to the accused consequent on his appearance. If the cost is not deposited within one month as aforesaid, the impugned order will stand revived and the complaint will stand dismissed. The revision petitioner shall appear before the court below on 4-9-2007 without any further notice.

**V. RAMKUMAR,
(JUDGE)**

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